

### DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive in view of the Goltsos reference being silent as to the passage openings differing such that overpressure is maximized at different pressure levels, and, therefore, the finality of that action is withdrawn.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**3. Claims 16-19, 21-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 16 recites the limitation "the environment." This limitation lacks sufficient antecedent basis. Furthermore, the claim and applicants specification do not appear to clarify what is meant by the limitation "shielded from the environment." That is, does "the environment" define the areas outside of the package or other areas within the compartmented package? Furthermore, the claim is not clear as to what is meant by shielding, since applicants disclosure also discusses "microwave shielding." Additionally, this limitation does not specify how the compartments are shielded.

Regarding the limitation "openable passage openings" it is not clear as to whether the openings are openable or whether the openings have been covered for instance.

Claim 16 further recites that "the passage openings of the individual compartments differ from each other such that overpressure in the individual compartments is maximized at different pressure levels." The limitation "differ" does not clarify how these passages differ and thus the claim is not clear as to how the passage differ from each other.

Claim 16 also recites "wherein the separate passage openings comprise pressure valves acting at different pressure levels." This limitation is not clear as to whether inside the passage openings are valves, for instance, or whether valves are placed over or on top of, the passage openings. Claim 16 is further unclear as to whether the passage openings (such as those shown by item 15 of figures 3A and 3B) are openable, or whether a structure covers the openings, where these structures are openable for reducing overpressure.

Claims 22-23 recite that the passage openings are blocked prior to use by a cover element and employing an adhesive layer. It is noted however, that claim 16 already recites that the passage openings comprise "pressure valves." Thus, claims 22-23 are not clear as to whether the cover elements are thus covering the valves or whether the cover elements are the valves.

Claim 23 recites the limitation "weakened portions." This limitation is not clear as to what structure is weakened or what the weakened portions are. Additionally, the

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claim is not clear as to how these portions are weakened (i.e. what is the property that defines the portions' being weakened - perforations for instance?). Furthermore, the limitation "weakened" is a matter of degree. The claim is not clear as compared to what is the portion weakened.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 16-18, 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goltsos (US 4013798) in view of Webster's dictionary, Hiyoshi (US 20010012530), Igarashi (JP11-049251), Mizuno (US 5989608), and Riess (DE3801122) and in further view of Oshima (US 4834247), Brown (US 3219460) and Lueneburg (US 2456134).**

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Regarding claim 16, Goltsos teaches a container with at least two compartments that are shielded from the environment and are sealingly separated from each other (See figure 7 and column5, lines 25-36). Goltsos further teaches that the individual compartments are provided with individually opening passages through which a medium can flow, for the purpose of releasing vapor pressure. In view of the definition of valve (see enclosed Webster's definition), and since applicants' have not defined a valve (see enclosed definition of valve) and since applicants also use similar passage openings for venting, it is noted that Goltsos teaches a valve structure. In any case, Hiyoshi for instance, teaches employing valve sheets that respond to pressure, for the purpose of venting a food package when cooking (see paragraph 0015-0017). Igarashi further teaches pressure release valves for controlling the amount of pressure in a cooking bag (see the abstract). Mizuno also teaches a pressure regulating valve (see the abstract). Thus, the art is replete with teachings of pressure sensing valves to relieve the pressure in a container when cooking a food therein. Since Goltsos already teaches individually relieving the pressure in each of the individual compartments by using a pressure relieving structure to thus modify Goltsos and employ conventional valve structures would have been an obvious substitution of one conventional pressure relieving structure for another, both of which have been conventionally employed for their art recognized and applicants' intended function. As discussed above under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, the claim language of the passage openings comprising pressure valves is not clear, since this language appears to read on pressure valves inside the passage openings. Additionally, it is noted that Riess also teaches compartments of a

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tray comprising food, wherein each compartment comprises valves in the film, which can open as a result of the pressure created therein, thus further evidencing that it has been conventional in the art to control the particular cooking of individual compartments of a compartmented tray.

Claim 16 nevertheless, differs from this combination in specifically reciting that each of the valves respond to different pressure levels.

It is noted that Goltsoos already teaches that the different compartments comprise different food, which thus generate vapor pressures which are thus relieved through the valve structures. Goltsoos nevertheless, is silent in discussing whether each of the valves allow the relief of the pressure at different pressures. Obviously, however, different types of foods would have generated different amounts of pressure when cooked for the same period of time. In any case, Igarashi teaches that pressure relief valve structures can be modified such that they relieve the pressure at different levels (see paragraph 0012 of the machine translation, for instance). In paragraph 0010, Igarashi also teaches that the pressure relief valve can have a different relief level such that the user can choose the particular bag that has the desired pressure relief levels for cooking the food. It is further noted that Oshima et al. teaches on column 3, lines 46-48 that the heat seal strength can vary and further teaches that the heat seal strength of the covering film provides the pressure relief mechanism (see abstract). Brown also teaches the concept of varying the number of openings in a covering over compartments of a container, wherein the compartments comprise different foods (see figures 3-4 and column 3, lines 50-53, 65-67, 73-75, column 4, lines 1-7, 15-18).

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Clearly, the different sizes of the openings would also have regulated the degree of pressure contained in the compartments, as well. Lueneburg further teaches employing pressure cooking, for instance, wherein the valve allows for different pressure relief levels, based on the particular cooking required as well as based on the particular type of food (column 5, lines 67-72). Although Lueneburg is directed to a conventional pressure cooking vessel, the concept of providing different levels of pressure relief based on the particular type of food has thus been taught to be a conventional concept. Clearly, Igarashi also teaches this concept by teaching that by varying the size of the valve, different levels of pressure needed for cooking can be achieved (see abstract). Thus, the art teaches that the particular strength of the pressure-relief valve can be modified and teaches that it has been conventional to employ different pressure relief levels based on the particular type of food being cooked. It is noted that Goltsos even teaches that the pressure relief valve structure is a function of the area of the sealing of the film to the container (see figure 6, for instance and column 4, lines 24-31). Therefore, to modify Goltsos and employ valve structures or adhesive strengths that would regulate the pressure relief for each of the compartments individually (to different pressure levels) would thus have been an obvious result effective variable, routinely determined by experimentation, for the purpose of achieving the desired degree of cooking in each of the compartments comprising different foods therein.

Regarding claim 17, Goltsos teaches a cover on the compartments, such as a sealing film.

Regarding claim 18, the combination as applied to claim 16 teaches blocking the passage openings prior to use of the package and which open under the influence of pressure in the compartments.

Regarding claim 24, which recites that the passage openings are arranged in the material layer with which the compartments are shielded from the environment, it is noted that both Hiyoshi and Mizuno already teach this concept for the similar purpose of pressure relief. In view of the rejection as applied above to claims 16 and 17, to thus modify the combination and employ another conventional passage opening and pressure relief structure would thus have been an obvious substitution of one conventional pressure relief mechanism for another, for the purpose of achieving a desired cooking of the food.

Regarding claim 25, the combination teaches the passage openings arranged in the container (see Goltsos, item 32, for instance). Regarding claim 26, the combination teaches a plurality of food products placed in the individual compartments, as evidenced by Goltsos.

**7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claims 16-18, 24-26 above, and in further view of Doyle et al. (US 3659584) and Toole (US 6307193).**

Claim 21 recites that the passage surface varies per compartment. Regarding this limitation, it is noted that Hiyoshi already teaches that the size of the vent holes can vary (paragraph 0019). Brown also teaches this concept, as discussed in the rejection

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of claim 16. Furthermore, it is noted that once the art recognized that different types of foods can require different pressure relief levels, to modify the particular relief area would have been an obvious result effective variable, routinely determined by experimentation, for the purpose of achieving the desired cooking. Nevertheless, Doyle et al. further evidences that the size of the aperture can vary and that the strength of the adhesive between the flap valve and the lid can also vary (column 3, lines 5-27). Toole further evidences that it has been conventional to modify the amount of steam released to regulate the cooking (see figure 1, item 19 and column 12, lines 45-54). Therefore, since the art already recognized employing different degrees of pressure relief based on the particular food to be cooked, to thus modify the combination and employ different sizes of openings would have been an obvious result effective variable, routinely determined by experimentation.

**8. Claims 19 and 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references, as applied to claims 16-18, 24-26, above, and in further view of Hammer (WO02087993).**

Regarding claim 19, which recites that the passage openings are blocked but open under the influence of a temperature being exceeded, it is noted that Hiyoshi teaches that the peel strength of the “valve” covering the passage opening lowers as the temperature increases (paragraph 0010), thus teaching that it has been conventional to use temperature to facilitate opening of the valve. It is noted that both



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pressure and temperature sensitive valve structures have been conventionally employed in the art, for the purpose of allowing for venting. For instance, the pressure relief is the result of the temperature (and thus pressure) by which the seal breaks down when such valves are used in covered containers that heat food. Additionally, Hammer further evidences employing adhesive layers that soften at particular temperatures for the purpose of providing pressure relief (page 5, lines 25-31). Thus, the art has already taught that it has been conventional to employ valves that relieve pressure as a result of achieving a particular temperature. Since the combination as applied to claim 16 already teaches regulating the particular pressure relief levels of the valves based on the type of food and since the art already recognized employing valves that further open as a function of temperature, to modify the combination and employ a particular combination of a temperature and pressure sensitive relief valve structure would have been an obvious result effective variable, routinely determined by experimentation for the purpose of achieving the desired cooking of each of the food products. It is even further noted that Goltsos also teaches controlling the temperatures of specific compartments by employing microwave shielding (see figure 1, item 12).

Regarding claim 22, which recites that the passage openings are blocked by means of a cover element fixed with an adhesive layer, Hiyoshi for instance, further teaches that during heating, a peelable layer loses its strength and facilitates venting the pressure (paragraph 0010). It is noted that claim 22 does not specify if “a cover element” is the cover itself or some additional feature secured to a cover or other portion that blocks the passage opening. In any case, Hiyoshi already teaches this

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concept. Hammer has been cited as further evidence that it has been conventional in the art to employ adhesive layers that soften at particular temperatures for the purpose of providing pressure relief (page 5, lines 25-31). Therefore, to modify the combination and to employ a particular conventional expedient for allowing pressure relief would thus have been an obvious substitution of one conventional pressure relief structure for another, for the purpose of achieving a desired degree of cooking.

**9. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references, as applied to claims 22, above, and in further view of Oyama (US 6068898) and Jacques (US 5114766).**

Claim 23 recites that a single cover element covers a plurality of passage openings and weakened portions are arranged in the cover element at the position of the passage opening. Regarding this limitation, and in view of the rejection under 35 U.S.C. 112, second paragraph, the claim is not clear as to what is meant by weakened, and as to what is being weakened. In view of this, it is noted that Goltsos teaches a single cover element covering a plurality of passage openings, as shown in figure 7. The limitation weakened portions is encompassed by Goltsos in view of the cover being sealed near the passage openings at a strength that is less than the remainder of the sealed edges (see figure 7, near item 32 and column 4, lines 24-32). In any case, to expedite prosecution, it is noted that Hammer further teaches a single cover comprising a passage and weakened portions arranged in the cover element at the position of the passage openings (see figures 1 and 5, item 4 and 6). Oyama further evidence

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employing a single cover element covering a plurality of passage openings (figure 2) which are considered weakened since they break open to relieve pressure (figure 7, item d). Jacques further teaches a single cover covering a plurality of passage openings and having weakened portions in the cover element (see figure 1, 3 and 4). Therefore, in view of the art taken as a whole, to modify the combination and employ weakened portions on a cover element at the position of the passage opening would have been an obvious substitution of one conventional arrangement for employing pressure relief, for another conventional arrangement for employing pressure relief, for the purpose of achieving the desired degree of heating of the food.

### ***Response to Arguments***

10. Applicants urge on 6 of the response that the pressure relieving structure disclosed by Goltsos in figure 7 are not "valves" consistent with an interpretation of the term. This urging has been considered but are not persuasive. It is noted that applicants' figures also employ a sealed film that opens when a particular pressure is achieved, as shown by figure 1b. This is similar to Goltsos's figure 7. Additionally, applicants have not defined the term valve and even employ different types of "valves" as shown by figures 1b and 2. Furthermore, by definition, a valve is nothing more than a device or something suggestive of a stop, that regulates or permits flow or movement through a passage (see enclosed definition 2 and 2b.) Clearly, the film and passage

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structure shown by figure 7 of Goltsos can also be considered valves, especially since applicants employ similar structures, as shown by figures 3A and 3B. These valves can further be considered pressure valves since the pressure generated within each compartment would result in individual pressure relief of each compartment.

11. Applicants also urge that there is no teaching or suggestion that the notch arrangements operate at different pressures. Upon reconsideration and in view of the rejection above, this urging is moot.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VIREN THAKUR whose telephone number is (571)272-6694. The examiner can normally be reached on Monday through Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571)-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steve Weinstein/  
Primary Examiner, Art Unit 1782

/V. T./  
Examiner, Art Unit 1782

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